

[\*Smith v. Tennessee Valley Authority\*](#), 86-ERA-22 (Sec'y Apr. 5, 1990)

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U.S. DEPARTMENT OF LABOR

SECRETARY OF LABOR  
WASHINGTON, D.C.

DATE: April 5, 1990  
CASE NO. 86-ERA-22

IN THE MATTER OF

JERRY D. SMITH,  
COMPLAINANT,

v.

TENNESSEE VALLEY AUTHORITY,  
RESPONDENT.

BEFORE: THE SECRETARY OF LABOR

ORDER TO SUBMIT SETTLEMENT AGREEMENT

This case, arising under the employee protection provision of the Energy Reorganization Act of 1974, as amended (ERA), 42 U.S.C. § 5851 (1982), is before me pursuant to the [Recommended] Order of Dismissal issued by Administrative Law Judge (ALJ) E. Earl Thomas on November 21, 1986.<sup>1</sup> In the order of dismissal the ALJ states that the parties, by their signatures on the order, consent to dismissal of the case with prejudice based on an agreed settlement.

No copy of the settlement was filed and it is not a part of the record. Despite the length of time which has elapsed since

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the issuance of the ALJ's order, this case cannot be dismissed unless the Secretary reviews and approves the settlement. *See Thompson v. United States Department of Labor*, 885 F.2d 551, 558 (9th Cir. 1989); *Fuchko and Yunker v. Georgia Power Co.*, Case Nos. 89-ERA-9, 89-ERA-10, Sec. Order, March 23, 1989.<sup>2</sup>

Accordingly, in order that the settlement can be reviewed to determine whether it is fair, adequate and reasonable, *see Macktal v. Brown & Root, Inc.*, Case No. 86-ERA-23, Sec. Order, November 14, 1989, the parties are ordered to submit a copy of the settlement agreement to me for review. If all the parties, including Complainant individually, have not signed the settlement agreement itself, the parties shall submit a certification or stipulation, signed by all parties to the agreement, including complainant individually, demonstrating their informed consent to the agreement. The settlement should be submitted within 30 days of receipt of this order.

SO ORDERED.

ELIZABETH DOLE  
Secretary of Labor

Washington, D.C.

**[ENDNOTES]**

<sup>1</sup> The ALJ issues only recommended decisions which are then forwarded to me for the issuance of a final order, 29 C.F.R. § 24.6(a) (1989).

<sup>2</sup> The ERA, 42 U.S.C. § 5851(b)(2)(A), provides that "the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary *on the basis of a settlement entered into by the Secretary* . . . issue an order either providing the relief prescribed by subparagraph B or denying the complaint." (emphasis added).